

**MINUTES
KITTY HAWK TOWN COUNCIL
Monday, October 5, 2015
Kitty Hawk Town Hall, 6 PM**

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Introductions/Presentations:
 - Police Officer II Dan Heim/5 Year Service Recognition
5. Public Comment
6. Consent Agenda
 - a.) Approval of September 8, 2015 Council Minutes
 - b.) Revenues and Expenses Report for August 2015
 - c.) Donation to the Police Department
7. Items Removed from the Consent Agenda
8. Planning
 - a.) Call for Public Hearing/Conditional Use Permit: Application for a Conditional Use Permit to allow medical offices/clinics in the existing building at 5107 N. Croatan Hwy.
 - b.) Permit Fee Reduction Request: Beach Food Pantry is relocating and planning renovation work to the new location. As a 501(c)(3) non-profit organization they are requesting building permit fees to be reduced or waived for the renovation work.
9. New Business
 - a.) Installation of Drainage Improvements in the Rabbit Hollow Area Discussion
10. Reports or General Comments from Town Manager
 - a.) Coastal Planning & Engineering Update
 - b.) Easement Agreements Update
 - c.) Overton Property Update
 - d.) Storm Update
 - e.) Free Flu Shots
 - f.) Fire Department Open House
11. Reports or General Comments from Town Attorney
12. Reports or General Comments from Town Council
13. Public Comment
14. Adjourn

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Ervin Bateman, Councilman Craig Garriss and Councilman Jeff Pruitt

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STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Management Assistant Melody Clopton, Finance Officer Charlene Allen, Town Planner Rob Testerman, Police Chief Joel Johnson, Fire Chief Lowell Spivey and Public Works Director Willie Midgett

1. Call to Order

Mayor Perry called the meeting to order at 6 p.m. and welcomed everyone in the audience and to those who may watch the meeting later on television.

2. Moment of Silence/Pledge of Allegiance

Following a moment of silence the Pledge of Allegiance was recited.

3. Approval of Agenda

Councilman Garriss made a motion to approve the agenda. It was seconded by MPT Bateman and unanimously approved, 5-0.

4. Introductions/Presentations

- **Police Officer II Dan Heim/5 Year Service Recognition** – Chief Johnson recognized Officer Heim and presented him with a plaque for his five years of service.

5. Public Comment

There were no public comments.

6. Consent Agenda

- Approval of September 8, 2015 Council Minutes.** *(An affirmative vote for the consent agenda will approve these minutes.)*
- Revenues and Expenses Report for August 2015.** *(An affirmative vote for the consent agenda will acknowledge this report.)*
- Donation to the Police Department.** Dusty Rhoads Hvac Inc. has donated \$150 to the police department and the police chief would like it to be allocated for future purchases of AED's (automated external defibrillator). *(An affirmative vote for the consent agenda will accept this donation and use.)*

Councilwoman Klutz made a motion, seconded by Councilman Pruitt, to approve the consent agenda. The motion passed unanimously, 5-0.

7. Items Removed from the Consent Agenda

No items were removed from the consent agenda.

8. Planning

a.) Call for Public Hearing/Conditional Use Permit: Application for a Conditional Use Permit to allow medical offices/clinics in the existing building at 5107 N. Croatan Hwy.

Councilman Garriss made a motion to call for a public hearing on November 2, 2015 to consider a Conditional Use Permit application to allow medical offices/clinics at 5107 North Croatan Highway. MPT Bateman seconded the motion and it was unanimously approved, 5-0.

b.) Permit Fee Reduction Request: Beach Food Pantry is relocating and planning renovation work to the new location. As a 501(c)(3) non-profit organization they are requesting building permit fees to be reduced or waived for the renovation work.

Testerman: *Recently the Beach Food Pantry purchased the former Max's Real Bagels property and they are planning to do some renovation work and move their operation into that building. They have asked, as a 301(c)(3) non-profit organization if council would consider reducing the permit fees or waiving them. Staff does not have the authority to do that and were they are welcome to make a request of the town council. In going over their plans it looks like the building permit fees would be around the \$500 range. I believe someone is here from the pantry if there are any questions.*

Perry: *We are being asked to waive the fee because it is a 501 charity. We waive permit fees routinely after storms and I want to do it for this but I do not want to set a precedence. On the other hand how often do we get something of this nature?*

Klutz: *I believe as long as the non-profit is actually out there helping the needy in the community and are mainly supported by volunteers and not high paid staff ... I would like to know if we can exercise this kind of discretion in waiving permits.*

Michael: *You can.*

Klutz: *If we can then I think we should take each as they come in and make our decision based on what their mission is.*

Perry: *I would not want to do sporting events or something where they have a paid administrator but where it is volunteer ... I know for a fact they are helping community folks that need help.*

MPT Bateman made a motion to waive the fees. Councilwoman Klutz seconded the motion and it passed unanimously, 5-0.

9. New Business

a.) Installation of Drainage Improvements in the Rabbit Hollow Area Discussion – Project consists of 3 trench drains, 2 drop inlets, swales between driveways and modification of an existing drop inlet.

Midgett: *This is for the installation of some drainage improvements in the Rabbit Hollow area off of West Tateway. This area is prone to flooding due to the topography of the land and the houses are built at the base of a hill. The roadway is above them and their concern is rainwater that runs off of the roadway and down the driveways.*

The three driveways that are mainly affected is from a past project. What we are attempting to install on the lower end of the property are two trench drains. This particular area was studied in the 2012 Stormwater Study and the recommendation was a pumping station to control the groundwater at an estimated cost of almost half a million dollars. I do not believe that is very practical for what we need. Also the maintenance costs and upkeep for the number of citizens that are served is minimal.

Installation of trench drains across three driveways and a couple of drop inlets will hopefully capture the water and move it down to this existing drop inlet at another property. This should take the water down the existing ditch line to an outfall. This will not stop it if there is complete saturation but it should help and take it out of the area and keep it from running down the driveways. The low bid for this particular project is \$24,600.

Perry: *I have some things that have bothered me a little and the first thing is I would not want council to proceed with this without a written consent from the adjacent property owners. We have one person that is complaining and wanting it done but it is affecting two other property owners. Back when we had a plan to put a ditch on Lindbergh and they put out flags before we or the neighbors knew it, it created some problems. I also want to have some sort of engineering that would tell us what diverting this water would do to other property owners. We are diverting it and it goes to an outfall but where does it terminate? It has to terminate somewhere. What affect does that have? Is it a net affect and detrimental to someone else?*

The town's legal obligation, if there is any, to do this work. That subdivision has been there a very long time and it's been that way I guess since it was built.

Midgett: *It is my understanding the curb and gutter that is there now with those trench drains came after those places were developed.*

Klutz: *Was it a privately funded project or did the town do it?*

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Midgett: *The town did it before I got here.*

Perry: *Is there enough money in the Powell Bill fund to do this and continue your overlaying and other projects?*

Midgett: *Yes sir, there is.*

Klutz: *Is all of the construction in the right-of-way?*

Midgett: *It is.*

Perry: *The person that wants this work had some comments. Has he given those to you yet?*

Midgett: *He did not give me anything in writing. I believe he has spoken with you and he told me the same thing about the water going down his driveway. His issue is he has the only driveway that is concrete all the way down to his house. The other driveways are broken. They terminate and then go into stone which they do not have quite the issue he has but it does roll down and he has a workshop and things like that at the bottom that get flooded in a heavy storm.*

Perry: *Council this is what I would like to do and please chime in. I would like to get written consent before we consider this and what will diverting the water do? The person that is asking for work should give us comments because he has asked to be able to comment and he should give us that in writing. Anyone else have comments on this?*

Pruitt: *The ones that are there right now, are they working satisfactorily?*

Midgett: *Yes sir and it is very similar to what we have at Byrd Street.*

Perry: *I understand but I do not want us to get in a mess with the neighbors and somebody at the end of the ditch. Let's keep it honest and legal and keep us out of trouble.*

Klutz: *In the case of the guy that is wanting this is it because he believes the work that was done previously by the town is causing his problem? Was he getting flooded before that was done?*

Midgett: *He bought this house after that was already in effect.*

Perry: *It probably was never done correctly when it was subdivided and built and then the town came in, I think to alleviate the problem, but it is insufficient to his problem.*

Midgett: *I am surprised it did not go on up the hill. Why they didn't carry it on up.*

Perry: *Be that as it may it is a town road. If it is a problem we'll try to fix it but let's get our ducks in a row. Once we get that information bring it back to us and then we can decide.*

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10. Reports or General Comments from Town Manager

a.) Coastal Planning & Engineering Update – Manager Stockton reported that during the month of July Coastal Planning and Engineering continued to coordinate with North Carolina Division of Coastal Management regarding the major CAMA permit application. They were notified on September 3rd the application was complete. CP&E also worked on finalizing the engineering report. The engineering and beach profile survey reports were finalized in August and delivered to the town. The Marine Sand Search and Borrow Area Design Report was completed in June and was submitted to NCDOT for approval. However they required CP&E to collect additional beach samples. This was done in August and the report was resubmitted as a part of the CAMA major permit application.

b.) Easement Agreements Update – Easement agreements received as of this date is 182 of 275 mailed out. Reminder letters will be sent out this week to those property owners who have not returned the agreements.

c.) Overton Property Update – The new owners of the Overton property came to the town hall and discussed their demo work with the Planning and Inspection Department. Their contractor is expected to come and pull the permit for demolition this week.

d.) Storm Update – Manager Stockton noted it was a busy weekend for the police, fire and public works departments. Staff was monitoring the overwash and as most people know a section of NC 12 at Kitty Hawk Road did not survive. The section between Kitty Hawk Road and Lillian Street is now closed until NCDOT can make repairs. They plan to extend the sandbags all the way to the bath house.

e.) Flu Shots – Free flu shots will be available Thursday, October 8th at town hall from 2:00 to 4:00 o'clock. Anyone 18 years and older are eligible for the shots.

f.) Fire Department Open House – The Fire Department will be having their annual open house on Wednesday, October 7th from 5:30 p.m. to 8:00 p.m.

Mayor Perry asked how far north the sandbags would be placed and Manager Stockton replied DOT did not indicate they would be extending them any further north than they are right now.

Mayor Perry asked if the letters reminding property owners about the easement agreements are going to be generic in content and the manager replied yes. The mayor asked to be informed of anyone that says they are not going to sign the easement. He would like to talk with them personally to find out why they are opposed to it.

11. Reports or General Comments from Town Attorney

There were no further comments from Attorney Michael.

12. Reports or General Comments from Town Council

The mayor and councilmembers thanked staff for all their hard work during the storm.

13. Public Comment

1.) Nellie Healy, Kitty Hawk, NC: *This is something I have been wanting to address for a long time but have been too busy. My name is Nellie Healy and I am the owner of 824, 826 and 828 Kitty Hawk Road along with my husband. We have spent the last several years renovating those properties and getting them up to snuff so to speak. As a result of Hurricane Irene the largest house, which is 828, was turned on its side and had to be raised. That work was finally completed.*

All the houses had damage from the flood and the reason I am here today is because my property abuts that canal and it is seriously clogged. I was hoping to get some assistance in how to go about getting the canal cleaned up. The interesting thing about that property is I actually do not own to the property line where the canal is but it is right there so the property on the other side of 828 owns the canal and a tiny sliver of the property where 828 is. I know it is a DOT responsibility but the roadway runs over there and there's a culvert that is totally clogged. I think that had a tremendous amount of impact when the waters came up that 828 got totally twisted. The other houses were damaged along with everything else.

As you well know it takes about two floods to get a house raised or unless the percentage of the destruction is ... anyway we went through the whole process and spent four years to get all three properties straightened out. The largest one was the one that had to be raised so I kind of feel that that whole side there is in danger and if something can be done to clean those canals and maybe rock put against them or whatever needs to be done. I'd like to work on that project along with whoever in the town you assign me to and see it through to its fruition. Whether we can do it as a community service project, involve the Department of Transportation, whatever player needs to be contacted. I know it is not a short term project. It is affecting my properties there and the others that are on that side.

Perry: *That particular culvert you are talking about and some others have in fact been reported to the Department of Transportation. They have looked at them. Willie do you know if they looked at this particular one she is talking about?*

Midgett: *I do not.*

Perry: *Would you check on that please? I just need an update if and when they looked at it and what are their plans. They have a lot on their plate with trying to fix roads here, down in Buxton, as well as across the state. They also have to get permits. It is not easy for them to change or replace a culvert. It is cumbersome just to clean something like that out or replace the culvert.*

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Bateman: *I called Rob last week and he is checking into Hook and Snag money, mosquito control. Have you gotten an answer back yet?*

Testerman: *No.*

Perry: *Cleaning was done several years ago under a program but it is no longer viable. It is extinct so you have to find some money to do things like that. The town does not have the money to go clean all the ditches that we have had a request to clean. They are too long and there are just too many of them. You would not like the tax rate we would have to levy for it. If we do not find other sources of money then it makes it very difficult to get it done.*

Healy: *That is why I'm here. I acknowledge that and realize it becomes maybe a citizen's job to work in conjunction with the town to research and see where we can find more money. You know how they say the squeaky wheel gets the oil ...*

Perry: *If you find money let us know.*

Healy: *Is there someone I should be working with in the town who I could at least get a starting point in terms of direction in which way I need to go?*

Bateman: *Let's see what Rob comes up with because he is researching if there's any money out there. He's our planner.*

Healy: *All right. Thank you very much.*

2.) Bob Healy, Kitty Hawk, NC: *My name is Bob Healy and I'm Nellie's husband. This is a follow up to what my wife was talking about. We own another home on Barlow Lane, along Ginguete Creek, and the situation there is not as bad as it is near the culvert that we were talking about. Some thoughts I wanted to bring up is maybe a different way of looking at some of these problems. We have basically a water flow problem because of all the creeks and culverts loading up with debris and they have not been dredged and cleaned up. I would think it could come under the auspices of flood mitigation because if you do not have flow you're going to have a much increased chance of flooding.*

I think maybe with this storm we dodged a bullet but if you have another storm like Irene or like Hurricane Isabelle coming up the sounds the situation on the west side could be pretty rough. I'm just wondering if as a town we could go to other agencies like FEMA or whoever and explore possibilities of funding under the banner of flood mitigation. It seems to me something like that would make sense and potentially down the line could save thousands, if not millions of dollars.

Perry: *Thank you. Anyone else? Let the record show no one else came forward.*

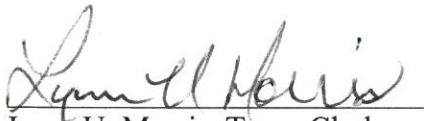
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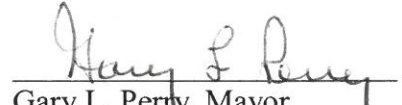
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14. Adjourn

MPT Bateman made a motion to adjourn. The motion was seconded by Councilman Garriss and unanimously approved, 5-0. Time was 6:35 p.m.

These minutes were approved at the November 2, 2015 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor
